

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

TONYA WARE, et al.,

Plaintiffs,

v.

No. 4:20-cv-1561 JCH

NOVARTIS PHARMACEUTICALS
CORPORATION,

Defendant.

PLAINTIFF'S MOTION TO DISMISS WITHOUT PREJUDICE

COMES NOW, Plaintiffs Tonya Ware, Michael Krone, and Lita Bryant, and for their motion to dismiss without prejudice, state as follows.

1. Plaintiffs move under Rule 41(a)(2) of the Federal Rules of Civil Procedure to voluntarily dismiss this case without prejudice.

2. Plaintiffs wish to dismiss the case because the case is at its nascent stage, and Plaintiffs wish to reconsider their desire to pursue their complex wrongful death claims through lengthy and potentially costly litigation.

3. Defendant Novartis Pharmaceuticals Corporation ("Novartis") will not be prejudiced by a voluntary dismissal without prejudice. The case is at its infancy. There is no scheduling order in place and discovery has not yet ensued. The only harm that Novartis may claim is that it may have to defend itself in a future lawsuit filed by Plaintiffs, which is an inadequate basis to defeat a motion for voluntary dismissal without prejudice. *See Palucci v. City of Duluth*, 826 F.2d 780 (8th Cir. 1987); *McGregor v. Scotts Co., LLC*, 2011 WL 6009834, at *1 (E.D. Mo. 2011).

4. In further support of this motion, Plaintiffs incorporate their supporting memorandum filed simultaneously herewith.

Respectfully submitted,

ONDER LAW, LLC

By /s/ Lawana S. Wichmann
Lawana S. Wichmann, #53999
Attorney for Plaintiff
110 E. Lockwood Ave.
St. Louis, MO 63119
314-963-9000
wichmann@onderlaw.com

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2021 the foregoing document was filed with the Court's CM/ECF filing system.

/s/ Lawana S. Wichmann